Summary Minutes

Appeal Hearing Minutes -- Beverly Hills Dairy Before the Nevada State Environmental Commission (SEC)

October 30, 2006

Appeal Hearing: Permit Number NV2006504 (Beverly Hills Dairy (A.K. Coral Cay Trust))

The Beverly Hills Dairy appeal was conducted on Monday, October 30, 2006 via videoconference at the Office of the Attorney General, 2nd floor Conference Room, 100 North Carson St., Carson City and Room 4500, 555 East Washington Ave., Las Vegas.

Below are the summary minutes of the hearing. The appeal hearing addressed a Motion for Dismissal that was filed by on August 26, 2006 by the Attorney for the Nevada Division of Environmental Protection, Mr. Bill Frey.

The SEC Appeal Panel

Commissioner Alan Coyner, Appeal Panel Chairman Commissioner Lew Dodgion, Member Commissioner Stephanne Zimmerman, Member

SUMMARY MINUTES

I. Introduction

The hearing commenced at 10:00 a.m. Chairman Coyner announced that the purpose of the hearing was the appeal of the permit for the Beverly Hills Dairy. Chairman Coyner introduced the other members of the panel, Commissioners Dodgion and Zimmerman. He noted that the hearing was open to the public in compliance with Nevada Open Meeting Law, and that written notice of the time, place and agenda of the hearing had been given at least three working days in advance of the hearing date. Copies of the notice had been posted according to legal requirements, and copies were also mailed to all persons requesting such notice.

He then asked the parties present in Carson City to introduce themselves:

Appellant: Bill Barrackman, Appellant, and John Marshall, representing Mr. Barrackman.

Interveners: Jim Butler and John Zimmerman of Parsons, Bailey and Lattimer, representing Beverly Hills Dairy.

State of Nevada:

Bill Frey, Deputy Attorney General, representing the Nevada Division of Environmental Protection (NDEP). Leo Drozdoff, Administrator, and Tom Porta, Deputy Administrator, NDEP.

For the Panel:

John B. Walker, Executive Secretary, and Robert Pearson, Recording Secretary, SEC.

Chairman Coyner requested that the parties present in Las Vegas introduce themselves (the following signed in at the Las Vegas location; Annie Bell arrived after the introductions):

Appellants:

Bruce Crater, Curtis Stengel, Christie Terraneo, Annie Bell.

Isaac Henderson, member of the public.

Interveners:

Jay Lazarus, Glovesta Geoscicence, Consultant representing Beverly Hills Dairy.

State of Nevada:

Bruce Holmgren, NDEP, Bureau of Water Pollution Control

For the Panel:

David Newton, Deputy Attorney General, legal counsel.

II. Purpose of the Hearing and Issue for Consideration

Chairman Coyner stated that the focus of this hearing is on the matter of standing, and the motion to dismiss by the Attorney General's office based on, potentially, the lack of standing of the appellants. The determination the panel will make is whether any or all of the appellants have standing. If the panel finds that they do have standing, another hearing will be set to hear the merits of the appeal. If the panel determines that the appellants do not have standing, then they have the option of requesting reconsideration from the SEC, or proceeding directly to judicial means if they so desire.

He referenced a similar hearing (not exactly similar, because the appellant situation was somewhat different) in the summer of this year before an SEC appeal panel (Big Springs Mine) where the appellant (Great Basin Mine Watch) was found not to have standing, asked for reconsideration and was confirmed not to have standing by a second panel of the SEC, and that that appellant has now filed for judicial review.

Chairman Coyner noted that regarding judicial review, anything said or presented into the record at this hearing can be considered later by the courts. So all parties should be aware of that as we make the official record of this hearing.

He reiterated that today's hearing will focus solely on the motion to dismiss, and consideration of whether any of the appellants have standing. With regard to procedure, he would be giving all appellants the opportunity to make a statement for the record; it was not required, however. There would also be an opportunity to make statements during the period of public comment, by appellants or others, but public comment would be after the decision of the panel had been rendered. So appellants should understand that they should make a statement at the beginning, rather than at the end, if they wanted it to be considered as part of the decision of the panel.

Chairman Coyner noted that at this point in the proceeding normally there would be pleadings and briefs; in this case there were none, other than the motions that had been filed; there were also no subpoenas, so he stated that he would entertain a motion for the record to accept Parsons, Bailey and Latimer as interveners on behalf of Beverly Hills Dairy. There were no objections from the appellants

Motion – Commissioner Dodgion moved to accept Parsons, Bailey and Latimer as intervener on behalf of Beverly Hills Dairy. The motion was seconded by Chairman Coyner. The vote in favor was unanimous.

Chairman Coyner noted that the panel also did not have any exclusion of witnesses or exhibits before it, so he would move to opening statements. Since Deputy Attorney General Frey, representing NDEP, was the mover in this case, he would present his statement first.

III. Presentation of Mr. Frey

Mr. Frey stated that to begin with, as a matter of law, he thought that appellants Annabel Bell, Annie Bell and Chip Bell, and appellant David Steel, by their failure to attend the hearing and oppose the motion to Dismiss, are acquiescing to that motion, and that they should be dismissed summarily, as they have expressed no opposition, or willingness to participate in today's hearing. The remaining appellants in their opposition identified that they complied with the statute 233B.127(4) which requires showing that a financial situation be maintained or improved as the result of the issuance of a permit. They need to be dismissed as well. Mr. Frey said that he would like to suggest to the panel that there has already been one hearing where a panel voted to dismiss an appellant based on this statute, and what he would like to avoid are inconsistent rulings that would create unequal treatment of appellants, where there has been no showing of the financial condition of the appellants.

He continued by saying that he would like to talk about a couple of points raised in the Opposition filed by Mr. Barrackman—none of the other appellants filed an opposition, and again he suggested to the panel that none of the other appellants having filed an opposition, that should be deemed as acquiescing to the Motion.

Mr. Frey noted however, this appellant (Barrackman) has suggested a constitutional right to challenge the permit, but it is actually a statutory right. Rights created by statute can be taken away by statute as well. Here the legislature has taken 233B, the statute governing appeals hearings, and modified it. Contrary to their argument, that is the specific statute that governs today's hearing. And it says that you can't come into the hearing unless you demonstrate that your financial condition has been improved or maintained by this permit.

Mr. Frey said that concluded his remarks; the rest of his arguments were in his Motion.

Chairman Coyner now called on opposing counsel Mr. Marshall to make his presentation.

IV. Presentation of Mr. Marshall

Mr. Marshall said he would like to draw some distinctions with the prior appeal that had been referenced in this hearing, where the Great Basin Mine Watch was found not to have standing to appeal an SEC decision. That had to do with the issue of financial interest, and he thought all of the appellants here were situated differently in that they had a financial interest in the granting or denial of the permit. That is the critical difference here.

Next, he wanted to talk about choice. The Commissioners had a choice here; how to interpret these statutes. If you look at the Attorney General's opinion it refers to 233B.174(4) (which he would refer to as "The APA section" as shorthand) and NRS 445A.605(1) which he would call "The SEC section." We have the generic APA section and we have the specific section on who can file an appeal, basically. The SEC section says anyone aggrieved can file, and the NRS section that is giving everyone fits says that only people who are financially helped or maintained by the granting of the permit, or who are financially hurt by the denial of the permit shall be admitted as parties in a contested case.

Those two statutes conflict. You can't on the face of them reconcile them both. In the AG's opinion they admit that there's a conflict and they try to resolve it, and they've come to one recommendation on how to resolve this conflict, using one standard of statutory construction. Mr. Barrackman in his brief articulated why you should interpret the SEC provision as governing, that "any person aggrieved" means any person, on the face of it. We can argue about which canons of construction you should use, the AG talks about you should give effect to every

word, we talk about the specific controls over the general, we say that if you deny a financially interested person over here the ability to participate, but you accept a financially interested person over there, you have to have a rational basis for making that distinction. That's the equal protection clause of the constitution.

And the way that you avoid that is to say we are going to follow the specific statue that governs SEC appeals, and that allows any person aggrieved.

So our basic point is that the Commission has a choice, a relatively stark one. You can say we're not gong to allow these people who are financially affected to participate, or we are going to allow them to participate and challenge this permit. We're talking about the basic ability of citizens with financial interest to participate in their government. We think you should choose the construction that expands the ability of citizens to challenge, and we think there is a rational basis for you to do that.

I think you can appreciate that if you take the position that the generic standard applies, you basically won't have any more appeals like this.

(Mr. Marshall now cited previous appealed NDEP permits that could not have been appealed under this interpretation, and his belief that they can never be appealed under the Attorney General's interpretation.) So the consequences are real, which is why you have a record number of appellants here.

If you accept this interpretation, you fall into the conundrum that the state and the intervener, who is the permitee who may be impacting the groundwater, and the people nearby who are users of that groundwater believe that the groundwater is at risk, and NDEP and the dairy say we have conditioned the permit so that we are protecting you, we have accomplished our fundamental job of protecting the public and the waters of the state. The terms of the permit conclude that the waters of the state will not be degraded and the public health and safety will be protected. That means as a direct result of the issuance of this permit that the financial position of Mr. Barrackman and the other appellants will be maintained, because their interest in the groundwater has been protected. We don't agree that the terms of the permit maintain their interests. We are fearful that the groundwater will be polluted. But the state is saying that we have conditioned this permit to protect your interests, to maintain your financial position. So how they can say that and also say that you don't meet the standing provision shows the awkwardness of saying in the SEC context why we should be interpreting the provision this way. If you were to rely solely on the information presented to you by NDEP and the appellants, these appellants have standing, because the specific result of the permit is to preserve the groundwater quality.

We of course dispute the premise that the permit is adequate. It presents a very difficult analytical task to say that what controls here is if the resource is protected. If the resource is protected then these appellants have standing

because their financial position is maintained. That also means that the permit was correctly issued, because the resource was protected. If you find that the permit was too loose in its substantive requirements, that the resource was not protected, then the appellants lack standing because their financial position will be hurt.

We don't believe that the Legislature intended that result—that's nonsensical. What should control here is the 'any person who is aggrieved' standard, which is what directly applies to this appeal.

You have a choice between these two competing constructions of these laws. In your role as overseer of NDEP permits you have the ability to interpret laws that come to you and that govern. We're not asking you to declare a law unconstitutional, contrary to how the interveners are trying to position us. You have a choice, and your choice should be to allow public participation, and to foster and encourage that participation, rather than take a position that says, "Why bother?" to the public, because we can ignore everything you say and you will not be able to participate in an appeal hearing. And we think that's inappropriate.

(At this point Mr. Newton in Las Vegas notified the Chairman that appellant Annie Bell had arrived and was present in the room).

V. Statements of Appellants

Chairman Coyner now proceeded down the list of appellants present and gave them the opportunity to make an opening statement. He reminded those present that this hearing was to determine the issue of standing only, and was not for the determination of the merits of the permit. He noted again that appellants could choose to waive making a statement at this time and speak under public comment, but that the decision of the panel would be rendered before the public comment period. The following appellants made statements at Chairman Coyner's invitation:

(Mr. Frey objected to Mr. Barrackman making a statement, since his representative had just made a statement on his behalf. Chairman Coyner asked Mr. Newton for an opinion. Commissioner Dodgion said that he had no objection to Mr. Barrackman making a statement. Mr. Newton said the panel had discretion, and Chairman Coyner noted that the SEC Rules of Practice did not seem to address whether it was an "either/or situation." Mr. Newton said it was unusual for an interested party to make a statement after their attorney, but was within the panel's discretion. When Commissioner Zimmerman said that she had no objection, Chairman Coyner asked Mr. Barrackaman to go ahead.

BILL BARRACKMAN

Mr. Barrackman noted the affidavit he had submitted for the record. He stated that he was not an out-of-town environmental group, but lived within a mile of the dairy, where he had established a pistachio orchard around 1989-90. He declared that he was concerned about his groundwater being polluted from the dairy, and felt that if you looked at the legislative history of this law, 233B, it was presented by Mr. James Wadhams, whose concern at that time was to make it easier for hearing officers to decide standing. Also, permits were being contested by business competitors (in the insurance industry).

He said he was not a dairyman and not in competition with the dairy and was just a man who had worked hard to establish his home and orchard there.

BRUCE CRATER

Mr. Crater stated that he was representing himself and his wife, was a citizen of the United States and a veteran, and a registered voter in Amargosa Valley, Nye County. He believed that 233B was in conflict with the Constitution of the United States and therefore he had the privilege of being heard. In addition, he had moved into the Amargosa Valley some time ago for the privilege of breathing clean air and drinking clean water, rather than having to buy bottled water and living in a polluted area. The decision to issue this permit had jeopardized his privileges.

ANNIE BELL

Ms. Bell stated that she had moved to the Amargosa Valley 30 years ago, and when she'd moved there, there was no threat to her water source, but now she felt her investment in the Valley was jeopardized. She looked to the panel to protect the investment she'd made, and as part of her rights of citizenship she'd like her concerns about pollution of groundwater to be heard.

CURTIS STENGEL

Mr. Stengel said that he was a resident of Amargosa Valley, having retired from the City of Las Vegas, and had built a home south of the site of the 'to-be dairy.' He is downwind and downwater from the facility. To have his comments fit the requirements where he would benefit financially—if you take away his environment, the air he breathes, then you could pay for his taxes. That's how he would benefit.

CHRISTIE TERRANEO

Said she had been a resident of Amargosa Valley since 2000. The existing dairy is to the south side of her and she gets the "benefit" of it when there is south

wind. The new dairy will be to the north of her property so she would get the "benefit" of it when there is a north wind, as well. She does not financially benefit from this decision but mentioned her 14th Amendment right to due process. She stated that where this dairy was going to be located, they will be moving greenwater two miles through a pipeline and if that pipeline should break it would negatively impact her tree-growing activities and her drinking water. She reiterated her 1st and 14th Amendment rights to speak. She said that 233B would make it unlikely anything would ever be appealed. She felt she had a right to be a party to this based on the location of her ranch and her constitutional rights.

There were no other appellants who desired to speak at this time, so Chairman Coyner moved to the opening statement of the intervener.

VI. Statement of Mr. Butler

Mr. Butler said that he did not have an opening statement, but desired to respond to some of Mr. Marshall's comments. Mr. Marshall had stated that the panel had a choice, but Mr. Butler believed it was clear that it did not have a choice to ignore what the Legislature had enacted in the APA. Instead, he suggested the panel go to the Attorney General's opinion that the more recent statute serves as a limitation or definition of aggrieved person under NRS 445. That gives a way to rationalize the statutes according to some well-known canons of statutory construction. That's what the last SEC panel did.

The second point he wanted to make was on Mr. Marshall's suggestion that people were denied the right to participate in this decision making process. The permit process has been going on for some time, there have been hearings and comments, people's voices have been heard. The statute does not deny participation, it simply limits participation in contested case hearings, which is why we are here today. He also suggests the statute on its face is nonsensical since if the permit is ripe the status of the party is maintained, but the statute actually says when there is a contested case hearing, as we have today, then the appellant must show to the satisfaction of the presiding hearing officer that before being admitted as a party, that the financial interest is likely to be maintained as a direct result of the granting of the permit. I don't think there's been any evidence or suggestion presented to the panel today that meets that requirement of the statute.

So on behalf of the Intervener we join in the motion by NDEP and urge you to dismiss the appeals.

VII. Questions form the Panel

Chairman Coyner asked for any questions from the panel regarding any of the opening statements.

Commissioner Dodgion commented that in regard to Mr. Marshall's statement, he agrees that this statute as it exists provides a disconnect, he didn't like it, but he also feels that the Commission, a panel of it, and the entire Commission have discussed the Attorney General's opinion. He thought that the panel today was in somewhat of a dilemma regarding it. He finds some merit in some of Mr. Marshall's arguments, and also some merit in some of the other attorney's arguments. His understanding is that the statute will be revisited by the 2007 Legislature, and he would hope it would get straightened out at that time.

Commissioner Zimmerman agreed with Commissioner Dodgion, and also had an understanding that someone is looking at this in the next Legislature. She asked Mr. Newton if that was correct? He replied that he had been told that a bill was being drafted but he had not seen it. Commissioner Zimmerman said she had heard the concerns of the appellants and also appreciated the merits of the motion to dismiss. She was curious how this property became a dairy farm—it seems that the NDEP permit is more an action regarding the already permitted use of the property, rather than permitting the use. There is concern by the appellants about groundwater quality, and maybe these appellants' concerns would be served by tracking the testing and monitoring process as provided in the permit. They also should have discussion with the jurisdiction that permitted the land use.

Commissioner Dodgion noted that Nye County did not used to have zoning or building permit requirements, and asked if that was still the case.

Bill Barrackman answered that this was correct, but that Pahrump was working on a regional planning district. There is provision in state statute that gives the county commission authority to regulate land use when that use may be detrimental to the health and financial well-being of the citizens in that area. Mr. Barrackman said that they had presented this to the County Commission along with a resolution of 4-1 from the town advisory board, along with over 200 signatures from residents, but the Commissioner said they could not act on it because they did not have a regional planning district. He had reminded them of the law, that they did have the authority for the exact reason that in the areas of Nevada that didn't have regional planning districts there should be some authority that could regulate possible hazardous uses. But the Commission chose to ignore that and assured them that NDEP would protect them. And now here they are.

Chairman Coyner said that he had a question for the Division before moving forward. Is the permit held in abeyance during the appeal process or does it go forward? NDEP Administrator Leo Drozdoff said that it goes forward.

Chairman Coyner then asked Mr. Barrackman if there was any activity at the site yet, and he replied there was none that he was aware of.

The Chairman inquired of Mr. Newton whether he should properly call for witnesses, in case anyone had a witness to present. Mr. Newton said that normal procedure was for the moving party, in this case the Division (NDEP), to make its response to issues raised by the appellants in their statement, since the moving party has the burden of proof.

Mr. Newton noted that one of the appellants had now requested to make additional comments to the panel, and that it was up to the panel's discretion whether to allow it. Panel members had no objection, so the Chairman allowed Bruce Crater to make another statement.

Mr. Crater reiterated his opinion that the statute in question was unconstitutional, and that if the panel continued to support this statute it was in conspiracy against the Constitution.

Chairman Coyner asked Mr. Newton if there were any addition steps needed before he asked for a motion. Mr. Newton replied that if they were comfortable with the information they had they could go forward with a motion. The Chairman asked Mr. Frey if he had anything further. Mr. Frey indicated that he would like to make a reply.

VIII. Reply of Mr. Frey

He touched on the issue of equal protection, using the example of driver's licenses. He noted that you have no constitutional right to a driver's license. What you have is a statutory right, and the Legislature has set the requirements and test for the license. It doesn't give you a constitutional license, but something that was created by statute. When you get that license, no third party can contest the issuance of the license. If the state wants to take the license away, they have to give you due process, a hearing, because once you have the license it is a property right of yours.

Comparing that to the situation today—Beverly Hills Dairy has a permit. A statute, but not the constitution, created the right of a third party to challenge that permit. The Legislature then amended that statute and limited who can challenge that. They limited it by saying you have to show you were aggrieved by it. Mr. Marshall argued in his brief that aggrieved has a certain definition, and it does; but the Legislature narrowed that definition when it modified 233B.127, and it came up with a very narrow definition, but that's the Legislature's prerogative. There is no due process right until it's created by statute. And if you can create something by statute, then you can take it away by statute, or in this case narrow it by statute. Where there is an equal protection question is if the Commission treats people who come before it differently. He compared this case with the Big Springs Mine decision in August and concluded that they were the same, in essence. The panel had dismissed the appeal and told the appellants that it was following the statute. Hence, Mr. Frey noted that if this panel came to

a different conclusion today it would not be providing equal protection under the law.

So let Mr. Marshall take it on appeal, and if a judge determines that the Commission's way of interpreting the statute is wrong, we can go forward from there. Mr. Frey then suggested the Commission not have different rulings on the same statute.

IX. Questions from the Panel

The Chairman asked for questions from the panel. When Commissioners Dodgion and Zimmerman had none, Chairman Coyner asked Mr. Newton a question about the AG's opinion. He said he believed that the expression had been used by Mr. Frey that "233B was the floor," that it sets the initial gate as to who can come through the administrative process to an appeal hearing? Mr. Newton essentially agreed, saying that the Legislature had "upped the ante" and raised the floor.

Chairman Coyner followed up by asking if it was the generally accepted rule of law that the later legislative action trumped an earlier one. Mr. Newton responded that this is one of the rules of statutory construction; but there are several rules, they sometimes conflict, and they do conflict in this case. There is a rule that the latest modification carries weight because the Legislature is deemed to know of all previous laws when it passes another law. There are others, including the one that Mr. Marshall referred to that the specific controls over the general; and there are others that were referred to in the Attorney General's opinion. The question is which ones are most applicable in a particular instance. Because of 233B's introductory language that it sets minimum procedural requirements, it is the opinion of the Attorney General's office that the latest action of the Legislature, even though it is on a more general level, controls in this particular instance. From that point we attempted to harmonize the two statutes as much as we could.

Chairman Coyner addressed the point to Mr. Newton that he remembered from the motions, that there was raised the potential of a conflict of interest with a Deputy Attorney General being a lawyer for the Commission and the Attorney General's opinion. He just wanted to clarify for the benefit of the appellants, that this is the Office of the Attorney General's opinion; was that correct? Mr. Newton explained that the panel that heard the Great Basin Mine Watch appeal could have asked him, Mr. Newton, for an on-the-spot opinion on the standing matter; instead they decided to request a formal opinion of the Attorney General's office, because they knew the ramifications in terms of the number of other agencies this could affect. So instead of having Mr. Newton do something *ad hoc*, they asked for a written opinion of the Attorney General's office.

There being no further questions from the Commissioners. Chairman Coyner

asked for a motion, and that it be specific and applicable to all the appellants, if that was the intent of the motion.

Commissioner Zimmerman asked for clarification before making a motion, and Chairman Coyner elaborated that if there was an appellant or appellants that the one making the motion believed should have standing then there should be specificity.

Motion – Commissioner Zimmerman moved to approve the Division of Environmental Protection's Motion to Dismiss the appeal of Water Pollution Control Permit NV2006504 referent to Beverly Hills Dairy, pursuant to NRS 233B.127(4). Commissioner Dodgion seconded the motion with the understanding that it applied to all the appellants listed on the certificate of service on the Motion to Dismiss.

Chairman Coyner asked Mr. Newton for confirmation that the motion before the panel now applied to all nine appellants, and Mr. Newton confirmed that that was his understanding of the motion that had been made. Chairman Coyner declared that therefore the second stood, and asked if there was discussion.

Commissioner Dodgion commented that the panel was bound to this decision and this motion by the past action of the previous panel and by the Attorney General's opinion.

Without further discussion the Chairman called for a vote, which was unanimous in favor.

X. Public Comment

LEO DROZDOFF, Administrator of the Nevada Division of Environmental Protection, stated that some discussion had taken place regarding statutory changes, and he would like to update the panel. On September 6 at the meeting of the full SEC he had said that the Division's position was that the changes to 233B had been problematic. Since that time, NDEP had been in touch with Assemblywoman Sheila Leslie, who had confirmed that she is planning to propose some amendment to 233B. NDEP has expressed its interest in working with her.

The Division has also requested correspondence on the matter from the federal Environmental Protection Agency, and has not yet received such correspondence, but hopes to receive that document shortly. Mr. Drozdoff wanted the Commission and everyone present to know that NDEP does intend to pursue this matter during the next legislative session.

CHRISTIE TERRANEO noted that she was not an attorney, but she did have a master's degree in public policy. She said that every law passed by the

Legislature has a right to be challenged, which just because it was passed didn't make it good law. While there had been another challenge to this law, she didn't believe it was the same circumstances, including the number of appellants. She expressed her opinion that it would be more prudent to postpone a ruling until it was clear if this law would hold, or be changed.

BRUCE CRATER responded to Mr. Frey's example of drivers licenses, and stated that every permit that is issued is challengeable under our Constitution. If he found that someone was operating a vehicle in an unsafe manner, in a manner that was detrimental to his health, safety or welfare he could challenge the possession of that license.

CURTIS STENGEL had a list of question that he stated were not answered during the December (2005) hearing in Amargosa Valley regarding the permit in question. His questions included the quality of pipe to be used, recourse if well contamination occurred and access issues if there were flooding. He said that there had been no answers to these questions. He also noted concerns about air quality. He listed the environmental laws that he claimed were not referenced. He said that NDEP was his only hope to protect him and he would count on them to stop the lagoon; if not, they would be labeled terrorists by himself and the seniors in his neighborhood.

Chairman Coyner noted that he had read the transcript of the December hearing and that the Commission would like to grill the Division about some of their answers to those questions, and hoped someday to get to that point in the appeal hearing process.

He reminded the appellants that they had the option to file for a Reconsideration of today's decision and that they might want to have that as part of the judicial review process, because there was the possibility for a judge to remand the case back because the appellants had not exhausted their appeals.

XI. Adjournment of the Appeal Hearing

There being no further comment from panel members Chairman Coyner declared the hearing closed.